

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

EDWARD D. HEATON,

Plaintiff,

vs.

THE WEITZ COMPANY, INC.,

Defendant.

No. 05-CV-102-LRR

**SUPPLEMENTAL
FINAL JURY INSTRUCTIONS**

Members of the jury, the instructions I have given you throughout the trial remain in effect. I will now give you some additional instructions.

SUPPLEMENTAL INSTRUCTION NO. 1

In addition to actual damages you have already considered, the law permits the jury under limited circumstances to award an injured person punitive damages.

Because you found in favor of Plaintiff, you must now decide whether Defendant acted with malice or reckless indifference to Plaintiff's right not to be retaliated against because of his opposition to national origin harassment or discrimination. Defendant acted with malice or reckless indifference if:

It has been proved by the greater weight of the evidence that Human Resource Manager Chantry DeVries and Vice President Michael Novy knew that by demoting or laying Plaintiff off from work and failing to recall him to work was in violation of the laws prohibiting retaliation, or was in reckless disregard of those laws.

However, you may not award punitive damages if it has been proved by the greater weight of the evidence that Defendant made a good-faith effort to comply with the laws prohibiting retaliation.


If you find that Defendant acted with malice or reckless disregard and did not make a good-faith effort to comply with the laws, then, in addition to any actual damages to which you find Plaintiff entitled, you may, but are not required to, award Plaintiff an additional amount as punitive damages if you find it is appropriate to punish Defendant or to deter Defendant and others from similar conduct in the future. Whether to award Plaintiff punitive damages, and the amount of those damages, are within your discretion.

(CONTINUED)

SUPPLEMENTAL INSTRUCTION NO. 1 (cont'd)

If you decide to award punitive damages, you should consider the following in determining the amount of the punitive damages award: the nature of the Defendant's conduct under the totality of the circumstances; the frequency of Defendant's conduct; how reprehensible Defendant's conduct was toward Plaintiff; what amount of punitive damages, in addition to the compensatory damages already awarded, is needed, considering Defendant's financial condition, to punish Defendant for its wrongful conduct toward Plaintiff and to deter Defendant and others from similar wrongful conduct in the future; the amount of fines and civil penalties applicable to similar conduct; and whether the amount of punitive damages bears a reasonable relationship to the compensatory damages already awarded.

DATED this 29th day of November, 2006.



LINDA R. READE
JUDGE, U.S. DISTRICT COURT

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**SUPPLEMENTAL
VERDICT FORM**

We, the jury, unanimously find the following verdict on the question submitted to us:

Question 4: **Has it been proved by the greater weight of the evidence that Defendant The Weitz Company, Inc., acted with malice or reckless indifference to Plaintiff Edward D. Heaton's right not to be retaliated against because of his opposition to national origin harassment or discrimination?**

Please answer "yes" or "no."

Answer: _____

(If your answer to Question 4 is "yes," please proceed to answer Question 5 below. If your answer to Question 4 is "no," do not answer any further questions, sign and date this Supplemental Verdict Form.).

(CONTINUED)

SUPPLEMENTAL VERDICT FORM (cont'd)

Question 5:

Note: Answer only if you answered "yes" to Question 4.

What damages do you award for:

\$_____ Punitive damages

(After answering Question 5, please sign and date the Supplemental Verdict Form).

Dated this _____ day of _____, 2006.

Foreperson

Juror

Juror

Juror

Juror

Juror

Juror

Juror